



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/653,247	09/03/2003	Kazuhiro Itagaki	1018775-000875	2827
21839 7590 06/07/2011 BUCHANAN, INGERSOLL & ROONEY PC POST OFFICE BOX 1404 ALEXANDRIA, VA 22313-1404				
EXAMINER				
CRUZ, IRIANA				
ART UNIT		PAPER NUMBER		
2625				
NOTIFICATION DATE		DELIVERY MODE		
06/07/2011		ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com
offserv@bipc.com

Office Action Summary

Application No.

10/653,247

Applicant(s)

ITAGAKI, KAZUHIRO

Examiner

IRIANA CRUZ

Art Unit

2625

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2011.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-7,9 and 11-18 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,3-7,9 and 11-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-945)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 1, 3-7, 9 and 11-18 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 7, 9, 11-12, 14 and 17 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter as follows. Claims 7, 9, 11-12, 14 and 17 are drawn to "A computer-readable storage device storing a computer program...". Normally, the claim would be statutory. However, the specification does not specifically define or exemplify the claimed computer readable medium, such examples would be defining the medium as encompassing statutory media such as a "ROM", "hard drive", "optical drive", etc, as well as **non-statutory** subject matter such as a "signal" or computer code.

"A transitory, propagating signal ... is not a "process, machine, manufacture, or composition of matter." Those four categories define the explicit scope and reach of subject matter patentable under 35 U.S.C. § 101; thus, such a signal cannot be patentable subject matter." (*In re Petrus A.C.M. Nuijten*; Fed Cir, 2006-1371, 9/20/2007).

Because the full scope of the claim as properly read in light of the disclosure appears to encompass non-statutory subject matter (i.e., because the specification

defines/exemplifies a computer readable medium as a non-statutory signal, carrier waver, etc.) the claim as a whole is non-statutory. The examiner suggests amending the claim to include the disclosed tangible computer readable medium, while at the same time excluding the intangible transitory media such as signals, carrier waves, code, etc. Any amendment to the claim should be commensurate with its corresponding disclosure. The examiner suggests amending the preamble to include "A non-transitory computer program product for use with a computer, the computer program product comprising computer usable medium..."

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 3-7, 9 and 11-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sugawara (US 2002/0019848 A1) in view of Ichimura (US 6496573 B1).

With respect to Claim 1, Sugawara'848 shows a data transmission apparatus comprising: a sender which sends an e-mail and a request for a confirmation of receipt of the e-mail to a destination (i.e., **image communication apparatus where an email is sent requesting an email/confirmation of receipt. See Paragraphs 8, 69 and 245-247 also see Figures 26 "confirmation required"**); a receiver which receives the confirmation of receipt from the destination (i.e., **transmission result report showing**

as a result MDN confirmed. See Paragraphs 123-127); and a controller which issues a transmission management report periodically, describing a result of previously sent transmission for a plurality of transmissions in the transmission management report **(i.e., transmission result report sent at times where the MDN is received or after the timeout time expired ((predetermined timings)), if the time elapsed then its showed as necessity for confirmation “o” in the report. See Paragraphs 123-130, 198-200 and see Figure 1, 7 and 26),** wherein said controller describes in the transmission management report (a) one or more previously sent transmissions on which the confirmation of receipt had been received when the transmission management report is issued **(i.e., showing a receipt of MDN is received for selected transmission. See Paragraphs 122-130 also see Figure 7-8 and 26),** (b) one or more previously sent transmissions on which the confirmation of receipt had not been received and a predetermined wait time had not elapsed when the transmission management report is issued **(i.e., previously sent No. 0005 and 0008 are still waiting for the MDN confirmation, also the reception result report has the MDN request still ON, showing “- ”. See Paragraphs 126, 198-199 also see Figures 10 and 26).**

Sugawara'848 does not teach explicitly a data transmission apparatus one or more previously sent transmissions which was described in the preceding transmission management report and on which the confirmation of receipt had not been received and a predetermined wait time had not elapsed when the preceding transmission management report is issued.

Ichimura'573 shows a data transmission apparatus wherein one or more previously sent transmissions which was described in the preceding transmission management report and on which the confirmation of receipt had not been received and a predetermined wait time had not elapsed when the preceding transmission management report is issued (**i.e., time-out information allowing a confirmation of a receipt to a predetermined time to respond while the waiting time is on showing on the management reports waiting status a blank on the delivery status while the waiting time is still running and giving an update result is received or time is out.** See Column 5, Lines 5-64 and Column 6, Lines 1-45 also see Figures 6a and 6b).

At the time of the invention, it would have been obvious to one of ordinary skill in the art to modify the management reports of Sugawara'848 to include a predetermined waiting time for monitoring an unknown receipt method taught by Ichimura'573.

The suggestion/motivation for doing so would have been to improve the systems ability to perform processing and perform a better report management without wasting resources by allowing the reports to monitor unknown receipts without a limit and to send reports with the accurate management information.

With respect to Claim 3, the combination of Sugawara'848 and Ichimura'573 shows a data transmission apparatus wherein said controller describes in the transmission management report that a result of transmission is uncertain for (b) the one or more previously sent transmissions on which the confirmation of receipt had not been received and a predetermined wait time had not elapsed when the transmission

management report is issued (i.e., **See Column 5, Lines 5-64 and Column 6, Lines 1-45 also see Figures 6a “--“ in Ichimura’573).**

With respect to Claim 4, the combination of Sugawara’848 and Ichimura’573 shows a data transmission apparatus wherein said controller describes in the transmission management report the one or more previously sent transmissions on which a last transmission management report stated that the result of transmission is uncertain (i.e., **See Column 5, Lines 5-64 and Column 6, Lines 1-45 also see Figures 6a “--“ in Ichimura’573).**

With respect to Claim 5, the combination of Sugawara’848 and Ichimura’573 shows a data transmission apparatus wherein said controller describes in the transmission management report that the result of transmission is certain if the result of transmission becomes certain when the transmission management report is issued, for (c) the one or more previously sent transmissions which was described in the preceding transmission management report and on which the confirmation of receipt had not been received and a predetermined wait time had not elapsed when the preceding transmission management report is issued (i.e., **time-out information allowing a confirmation of a receipt to a predetermined time to respond while the waiting time is on showing on the management reports waiting status a blank on the delivery status while the waiting time is still running and giving an update result is received or time is out. See Column 5, Lines 5-64 and Column 6, Lines 1-45 also see Figures 6a and 6b in Ichimura’573).**

With respect to Claim 6, Sugawara'848 shows a data transmission apparatus wherein the request for a confirmation of receipt is based on Message Distribution Notification (*i.e.*, **See Figs. 3-4 and Paragraphs 6 and 69**).

With respect to Claims 7 and 18, arguments analogous to those presented for claim 1, are applicable.

With respect to Claim 9, arguments analogous to those presented for claim 3, are applicable.

With respect to Claim 11, arguments analogous to those presented for claim 5, are applicable.

With respect to Claim 12, arguments analogous to those presented for claim 6, are applicable.

With respect to Claim 13, the combination of Sugawara'848 and Ichimura'573 shows a data transmission apparatus wherein the transmission management report is issued when the number of previously sent transmissions reaches a predetermined value (*i.e.*, **See Paragraph 15**).

With respect to Claim 14, arguments analogous to those presented for claim 13, are applicable.

With respect to Claim 15, the combination of Sugawara'848 and Ichimura'573 shows a data transmission apparatus wherein the transmission management report includes results of confirmations of receipt for previously sent transmissions that have been designated as delivered or undelivered since a previous transmission management report (*i.e.*, **See 6a and 6b**).

With respect to Claim 16, Sugawara'848 shows a data transmission apparatus wherein the transmission management report is issued when a predetermined time elapses (**i.e., transmission result report sent at times where the MDN is received or after the timeout time expired ((predetermined timings)), if the time elapsed then its showed as necessity for confirmation "o" in the report. See Paragraphs 123-130, 198-200 and see Figure 1, 7 and 26).**

With respect to Claim 17, arguments analogous to those presented for claim 16, are applicable.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to IRIANA CRUZ whose telephone number is (571)270-3246. The examiner can normally be reached on Monday-Friday 7:30am to 4:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, King Y. Poon can be reached on (571) 272-7440. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/CHAN S PARK/
Acting SPE of Art Unit 2625

Iriana Cruz
Examiner
Art Unit 2625

May 27, 2011
/I. C./
Examiner, Art Unit 2625